

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE.

MICHAEL D. CLARKE,

Petitioner,

v.

KENNETH QUINN,

Respondent.

CASE NO. C07-1558-JCC-MAT

ORDER

The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. No. 1), the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge (Dkt. No. 3), any objections thereto, and the balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation (Dkt. No. 3).
- (2) Petitioner's § 2254 petition is DISMISSED without prejudice because the Court is without jurisdiction to consider it until the Ninth Circuit Court of Appeals has authorized its filing. Petitioner's application for leave to proceed *in forma pauperis* (Dkt. No. 1) is DENIED as moot.
- (3) The Clerk is directed to send copies of this Order to petitioner and to Judge Theiler.

DATED this 15th day of November, 2007.



JOHN C. COUGHENOUR
United States District Judge

ORDER